



4000-01-U

DEPARTMENT OF EDUCATION

Privacy Act of 1974; System of Records -- Alternative
Dispute Resolution (ADR) Center Case Tracking System

AGENCY: Office of Management (OM), Alternative Dispute
Resolution Center, Department of Education.

ACTION: Notice of altered systems of records.

SUMMARY: In accordance with the Privacy Act of 1974, as
amended, 5 U.S.C. 552a (Privacy Act), the Department of
Education (Department) publishes this notice proposing to
revise the system of records entitled "Grievances Filed
Informally Through the Informal Dispute Resolution Center"
(IDR Center) (18-05-12), including revising the title to
"Alternative Dispute Resolution (ADR) Center Case Tracking
System."

DATES: Submit your comments on this proposed altered
system of records on or before [INSERT DATE 30 DAYS AFTER
DATE OF PUBLICATION IN THE FEDERAL REGISTER].

The Department has filed a report describing the
altered system of records covered by this notice with the
Chair of the Senate Committee on Homeland Security and
Governmental Affairs, the Chair of the House Committee on
Oversight and Government Reform, and the Administrator of
the Office of Information and Regulatory Affairs, Office of

Management and Budget (OMB) on November 6, 2012. This altered system of records will become effective on the later date of: (1) the expiration of the 40-day period for OMB review on December 17, 2012, unless OMB waives 10 days of the 40-day review period for compelling reasons shown by the Department; or (2) [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER], unless the systems of records needs to be changed as a result of public comment or OMB review.

ADDRESS: Address all comments about the ADR Center Case Tracking system of records to Debra A. Bennett, Director, Alternative Dispute Resolution Center, Office of Management, U.S. Department of Education, Capitol Place Building, 80 F Street, NW., Room 408C/Mail Stop 4000, Washington, DC 20001-1528. If you prefer to send comments through the Internet, use the following address:

comments@ed.gov

You must include the term "ADR Center System of Records" in the subject line of your electronic message. During and after the comment period, you may inspect all public comments about this notice at the U.S. Department of Education in room 410-F, 80 F Street, NW., Room 410C/Mail Stop 4000, Washington, DC 20001-1528, between the hours of

8:00 a.m. and 4:30 p.m., Eastern time, Monday through Friday of each week except Federal holidays.

Assistance to Individuals with Disabilities in Reviewing the Rulemaking Record

On request we will provide an appropriate accommodation or auxiliary aid to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for this notice. If you want to schedule an appointment for this type of accommodation or auxiliary aid, please contact the person listed under FOR FURTHER INFORMATION CONTACT.

FOR FURTHER INFORMATION CONTACT: Debra A. Bennett, Director, Alternative Dispute Resolution Center, Office of Management, U.S. Department of Education, Capitol Place Building, 80 F. Street, NW., Room 408C/Mail Stop 4000, Washington, DC 20001-1528. Telephone number: 202-401-0693. If you use a telecommunications device for the deaf (TDD), or text telephone (TTY), you may call the Federal Relay Service (FRS), toll free, at 1-800-877-8339.

SUPPLEMENTARY INFORMATION:

Introduction

The ADR Center Case Tracking System is a web-based J2EE application that is platform independent and captures all information relating to Alternative Dispute Resolution

case processing. It tracks, manages, and reports on all data, events, and procedures related to pre-grievances (administrative and negotiated), pre-Equal Employment Opportunity (EEO) complaints, formal EEO complaints, and other workplace issues. The ADR Center Case Tracking System provides a reporting module that collects data for tracking, managing, and reporting purposes, including, but not limited to, management reports, statistical analysis, and case status reports.

The ADR Center Case Tracking System will be a standalone system of records that will no longer be located in the OM, Office of Hearings and Appeals, but instead will be located in the OM, Alternative Dispute Resolution Center. These records will be maintained, not only in paper files in filing cabinets, but will now also be maintained electronically on a computerized tracking system, as well as in an email system. They will now be maintained electronically to improve efficiency and functionality, particularly with regard to tracking. The ADR Center Case Tracking System will collect the same data as previously collected on current and former non-bargaining unit employees of the Department and applicants.

The Department published the original system of records on June 4, 1999, in the Federal Register. (64 FR

30106, 30137-30139). This notice adds the category of individuals whose records are maintained to include current and former bargaining-unit employees of the Department. It also revises the purpose for which the information is used in the system of records to indicate that it will be used: (1) to track, manage, and report on all data, events, and procedures related to pre-grievances (administrative or negotiated); (2) to track, manage, and report on all data, events, and procedures related to pre-Equal EEO complaints referred to the ADR Center for alternative dispute resolution; (3) to track, manage, and report on all data, events, and procedures related to formal EEO complaints referred to the ADR Center for alternative dispute resolution; (4) to track, manage, and report on all data, events, and procedures related to Department employees filing any workplace issue; (5) to collect, analyze, and report data pertinent to the particular claim being asserted to include some Personally Identifiable Information (PII) for periodic reports and analysis; (6) to maintain a record of the data provided by employees requesting assistance; (7) to act as a source for information necessary to fulfill OM, Equal Employment Opportunity Services' alternative dispute resolution reporting requirements; and (8) to enable complaint

resolution partners to review and analyze the data of their formal grievance/complaint population. In addition, the authority for maintenance of the ADR Center Case Tracking system of records has been updated to include applicable sources of authority.

In addition, the Department proposes to revise the routine uses. We propose to revise routine use (3)(a)(iii) "Litigation and Alternative Dispute Resolution (ADR) Disclosures" to permit the Department to disclose certain records from this system to the parties described in routine use paragraphs (3)(b) "Disclosure to the Department of Justice (DOJ)," (3)(c) "Administrative Disclosures," and (3)(d) "Parties, Counsel, Representatives, and Witnesses" for any Department employee in his or her individual capacity if the DOJ has been requested to provide or arrange for representation of the employee.

The Department proposes to also revise routine use (6) "Labor Organization Disclosure" to permit the Department to disclose records from this system to an arbitrator to resolve disputes under a negotiated grievance procedure or to officials of labor organizations recognized under 5 U.S.C. chapter 71 when relevant and necessary to their duties of exclusive representation. In addition, the Department also proposes to revise routine use (7) "Freedom

of Information Act (FOIA) and Privacy Act Advice Disclosure" to permit the Department to disclose records from this system to the Department of Justice and OMB if the Department concludes that disclosure is desirable or necessary in determining whether particular records are required to be disclosed under the FOIA or the Privacy Act.

Finally, the Department proposes to add a new, routine use (13) "Disclosure in the Course of Responding to a Breach of Data" to permit the Department to disclose records from this system to appropriate agencies, entities, and persons when: (a) the Department suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) the Department has determined that as a result for the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

The notice also revises the policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system (particularly the retention and disposal of records in the system), the safeguards that protect the records in the system, and updates the system manager and address. The retention and disposal policy has been updated to comply with the General Records Schedule approved by the National Archives and Records Administration. The description of safeguards has been updated to include additional security measures that have been put in place, including monitoring by security personnel and the testing of the system's security posture.

The Privacy Act requires the Department to publish in the Federal Register this notice of an altered system of records (5 U.S.C. 552a(e)(4) and (11)). The Department's regulations implementing the Privacy Act are contained in part 5b of title 34 of the Code of Federal Regulations (CFR).

The Privacy Act applies to any record about an individual containing individually identifying information that is retrieved from a system of records by a unique identifier associated with each individual, such as a name or social security number. The information about each

individual is called a "record," and the system, whether manual or computer-based, is called a "system of records."

The Privacy Act requires each agency to publish notices of systems of records in the Federal Register and to prepare reports to OMB and Congress whenever the agency publishes a new system of records or makes a significant change to an established system of records.

Each agency is also required to send copies of the report to the Chair of the Senate Committee on Homeland Security and Governmental Affairs and the Chair of the House Committee on Oversight and Government Reform. These reports are included to permit an evaluation of the probable effect of the proposal on the privacy rights of individuals.

Accessible Format: Individuals with disabilities can obtain this document in an accessible format (e.g., braille, large print, audiotape, or compact disc) on request to the contact person listed in this section.

Electronic Access to This Document: The official version of this document is the document published in the Federal Register. Free Internet access to the official edition of the Federal Register and the Code of Federal Regulations is available via the Federal Digital System at:

www.gpo.gov/fdsys. At this site you can view this

document, as well as all other documents of the Department published in the Federal Register, in text or Adobe Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the Federal Register by using the article search feature at: www.federalregister.gov. Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Dated: November 6, 2012

Winona H. Varnon,
Principal Deputy Assistant Secretary
for Management
Delegated the Authority to Perform the
Functions and Duties of the Assistant
Secretary for Management

For the reasons discussed in the introduction, the Principal Deputy Assistant Secretary for Management, U.S. Department of Education (Department) publishes a notice of altered system of records to read as follows:

SYSTEM NUMBER:

18-05-12

SYSTEM NAME:

Alternative Dispute Resolution (ADR) Center Case Tracking System

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Alternative Dispute Resolution Center, Office of Management, U.S. Department of Education, Capitol Place Building, 80 F Street, NW., Room 408C/Mail Stop 4000, Washington, DC 20001-1528.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system contains records about current and former Department employees or applicants who have contacted the ADR Center within 45 calendar days of becoming aware of an incident or work-related dispute needing resolution. A work-related dispute can include a pre-grievance

(administrative or negotiated), pre-Equal Employment Opportunity (EEO) complaint, or formal EEO complaint that involves various labor and employment laws and regulations pertaining to informal workplace dispute resolution.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system of records produces an Alternative Dispute Resolution Center case file that contains personally identifying information that is pertinent to the particular claim (e.g., non-selection, disciplinary action, performance problem) being asserted, including, but not limited to, documents that contain the employee's name, sex, date of birth, home address, and telephone number. This system of records does not include records covered by the Department's system of records notices entitled "Discrimination Complaints Records System" 18-05-04 or the Equal Employment Opportunity Commission (EEOC)/GOVT- 1 System of Records Notice entitled "Equal Employment Opportunity in the Federal Government Complaint and Appeal Records" and "Grievances Filed Formally Under the Administrative Grievance Procedure" 18-05-05" or "Grievance Records Filed Under Procedures Established by Labor Management Negotiations" 18-05-06.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The system is authorized under the Administrative Dispute Resolution Act of 1996 (ADRA), 5 U.S.C. §571 et seq.; Age Discrimination in Employment Act of 1967, as amended (ADEA), 29 U.S.C. 621 et seq.; EEOC regulations, 29 CFR part 1614; Title VII of the Civil Rights Act of 1964, 42 U.S.C. 2000e et seq.; Sections 501 and 505 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 791 et seq.; the Equal Pay Act, 29 U.S.C. 206(d); the Genetic Information Nondiscrimination Act, 42 U.S.C. 2000ff et seq.; Department of Education, Personnel Management Instruction 771-1-Employee Grievances; and, the Department of Education's Collective Bargaining Agreement, Article 42-Grievance Procedure.

PURPOSE(S) :

The information in this system is used: (1) to track, manage, and report on all data, events, and procedures related to pre-grievances (administrative or negotiated); (2) to track, manage, and report on all data, events, and procedures related to pre-EEO complaints referred to the ADR Center for alternative dispute resolution; (3) to track, manage, and report on all data, events, and procedures related to formal EEO complaints referred to the ADR Center for alternative dispute resolution; (4) to track, manage, and report on all other data, events, and

procedures related to any workplace issue; (5) to collect, analyze, and report data pertinent to the particular claim being asserted to include some Personally Identifiable Information (PII) for periodic reports and analysis; (6) to maintain a record of the data provided by employees requesting assistance; (7) to act as a source for information necessary to fulfill Equal Employment Opportunity Services' alternative dispute resolution reporting requirements; and (8) to enable complaint resolution partners to review and analyze the data of their formal grievance/complaint population.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The Department may disclose information contained in a record in this system of records under the routine uses listed in the system of records without the consent of the individual, if the disclosure is compatible with the purposes for which the record was collected. These disclosures may be made on a case-by-case basis or, if the Department has complied with the computer matching requirements of the Privacy Act of 1974, as amended (Privacy Act), under a computer matching agreement.

(1) Disclosure for Use by Other Law Enforcement Agencies. The Department may disclose information to any

Federal, State, local, or foreign agency or other public authority responsible for enforcing, investigating, or prosecuting violations of administrative, civil, or criminal law or regulation if that information is relevant to any enforcement, regulatory, investigative, or prosecutorial responsibility within the receiving entity's jurisdiction.

(2) Enforcement Disclosure. In the event that information in this system of records indicates, either on its face or in connection with other information, a violation or potential violation of any applicable statute, regulation, or order of a competent authority, the Department may disclose the relevant records to the appropriate agency, whether foreign, Federal, State, Tribal, or local, charged with the responsibility of investigating or prosecuting that violation or charged with enforcing or implementing the statute, Executive order, rule, regulation, or order issued pursuant thereto.

(3) Litigation and ADR Disclosures.

(a) Introduction. In the event that one of the parties listed below is involved in litigation or ADR, or has an interest in litigation ADR, the Department may disclose certain records to the parties described in

paragraphs (b), (c) and (d) of this routine use under the conditions specified in those paragraphs:

(i) The Department, or any of its components; or

(ii) Any Department employee in his or her official capacity; or

(iii) Any Department employee in his or her individual capacity if the Department of Justice (DOJ) has agreed to or has been requested to provide or arrange for representation of the employee;

(iv) Any Department employee in his or her individual capacity where the Department has agreed to represent the employee; or

(v) The United States where the Department determines that the litigation is likely to affect the Department or any of its components.

(b) Disclosure to the DOJ. If the Department determines that disclosure of certain records to the DOJ is relevant and necessary to litigation or ADR, the Department may disclose those records as a routine use to the DOJ.

(c) Adjudicative Disclosures. If the Department determines that disclosure of certain records to an adjudicative body before which the Department is authorized to appear, an individual or entity designated by the Department or otherwise empowered to resolve or mediate

disputes is relevant and necessary to the litigation or ADR, the Department may disclose those records as a routine use to the adjudicative body, individual, or entity.

(d) Parties, Counsel, Representatives, and Witnesses.

If the Department determines that disclosure of certain records to a party, counsel, representative, or witness is relevant and necessary to the litigation or ADR, the Department may disclose those records as a routine use to the party, counsel, representative, or witness.

(4) Employment, Benefit, and Contracting Disclosure.

(a) For Decisions by the Department. The Department may disclose a record to a Federal, State, or local agency maintaining civil, criminal, or other relevant enforcement or other pertinent records, or to another public authority or professional organization, if necessary to obtain information relevant to a Department decision concerning the hiring or retention of an employee or other personnel action, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit.

(b) For Decisions by Other Public Agencies and Professional Organizations. The Department may disclose a record to a Federal, State, local, or foreign agency or other public authority or professional organization, in

connection with the hiring or retention of an employee or other personnel action, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit, to the extent that the record is relevant and necessary to the receiving entity's decision on the matter.

(5) Employee Grievance, Complaint or Conduct Disclosure. The Department may disclose a record in this system of records to another agency of the Federal Government if the record is relevant to one of the following proceedings regarding a present or former employee of the Department: a complaint, a grievance, or a disciplinary or competence determination proceeding. The disclosure may only be made during the course of the proceeding.

(6) Labor Organization Disclosure. The Department may disclose records from this system to an arbitrator to resolve disputes under a negotiated grievance procedure or to officials of labor organizations recognized under 5 U.S.C. chapter 71 when relevant and necessary to their duties of exclusive representation.

(7) Freedom of Information Act (FOIA) and Privacy Act Advice Disclosure. The Department may disclose records to

the DOJ and the Office of Management and Budget if the Department concludes that disclosure is desirable or necessary in determining whether particular records are required to be disclosed under the FOIA or the Privacy Act.

(8) Disclosure to the DOJ. The Department may disclose records to the DOJ to the extent necessary for obtaining DOJ advice on any matter relevant to an audit, inspection, or other inquiry related to the programs covered by this system.

(9) Contract Disclosure. If the Department contracts with an entity for the purposes of performing any function that requires disclosure of records in this system to employees of the contractor, the Department may disclose the records to those employees. Before entering into such a contract, the Department shall require the contractor to maintain Privacy Act safeguards as required under 5 U.S.C. 552a(m) with respect to the records in the system.

(10) Research Disclosure. The Department may disclose records to a researcher if an appropriate official of the Department determines that the individual or organization to which the disclosure would be made is qualified to carry out specific research related to functions or purposes of this system of records. The official may disclose records from this system of records to that researcher solely for

the purpose of carrying out that research related to the functions or purposes of this system of records. The researcher shall be required to maintain Privacy Act safeguards with respect to the disclosed records.

(11) Congressional Member Disclosure. The Department may disclose records to a member of Congress from the record of an individual in response to an inquiry from the member made at the written request of that individual. The member's right to the information is no greater than the right of the individual who requested it.

(12) Disclosure to the OMB for Credit Reform Act (CRA) Support. The Department may disclose records to OMB as necessary to fulfill CRA requirements.

(13) Disclosure in the Course of Responding to a Breach of Data. The Department may disclose records from this system to appropriate agencies, entities, and persons when: (a) the Department suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) the Department has determined that as a result for the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another

agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Not applicable to this notice.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in paper files in filing cabinets and electronically on a computerized tracking system, and in an email system.

RETRIEVABILITY:

Records are indexed by case tracking number and can be retrieved by the name of the non-Government party, whether applicant or employee.

SAFEGUARDS:

Access to and use of the hard-copy records and the electronic system is limited to those persons with a "need-to-know" and whose official duties require such access. Hard-copy records are stored in file cabinets in an office

location that is kept locked after the close of the business day. Personnel screening is employed to prevent unauthorized disclosure. Computers are password protected. The system is designed with security measures to control an individual user's ability to access and alter records.

RETENTION AND DISPOSAL:

The records in this system are maintained in accordance with the General Records Schedule 1, item 27 Alternative Dispute Resolution (ADR) Files. The General Files, such as, general correspondence and copies of statutes, regulations, meeting minutes, reports, statistical tabulations, evaluations of the ADR program, and other records relating to the Department's overall ADR program will be destroyed when 3 years old. A longer retention is authorized if records are needed for agency business. (N1-GRS-03-2 item a).

The Case Files cover records documenting ADR proceedings and may include an agreement to use ADR, documentation of the settlement or discontinuance of the ADR case, parties' written evaluations of the process and/or the neutral third party mediator, and related correspondence. The Case Files will be destroyed 3 years after settlement is implemented or the case is discontinued. (N1-GRS-03-2 item b).

SYSTEM MANAGER(S) AND ADDRESS:

Director, Alternative Dispute Resolution Center,
Office of Management, U.S. Department of Education, Capitol
Place Building, 80 F. Street, NW., Room 408C/Mail Stop
4000, Washington, DC 20001-1528.

NOTIFICATION PROCEDURE:

If you wish to determine whether a record exists
regarding you in this system of records, contact the system
manager. Requests must meet the requirements in the
regulations at 34 CFR 5b.5, including proof of identity.

RECORD ACCESS PROCEDURES:

If you wish to gain access to a record in this system,
contact the system manager. Requests by an individual for
access to a record must meet the requirements the
regulations at 34 CFR 5b.5, including proof of identity.

CONTESTING RECORD PROCEDURES:

If you wish to contest the content of a record
regarding you in this system of records, contact the system
manager. Your request must meet the requirements of the
Act regulations at 34 CFR 5b.7, including proof of
identity.

RECORD SOURCE CATEGORIES:

Information in this system of records is supplied from the following sources: Directly by the individual filing a request for resolution of an EEO pre-complaint, EEO formal complaint or pre-grievance, from information supplied by the individual, or by testimony of witnesses, employee representatives, or Department employees/officials.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

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